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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/814,193

04/01/2004

Danh Tran

TRAN=8.1A

6447

1444 7590 05/27/2008  
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EXAMINER

BOLDEN, ELIZABETH A

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

05/27/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/814,193	<b>Applicant(s)</b> TRAN, DANH	
	<b>Examiner</b> ELIZABETH A. BOLDEN	<b>Art Unit</b> 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/1/04</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 1 April 2004 has been considered by the examiner.

### ***Drawings***

The drawings were received on 1 April 2004 are accepted by the Examiner.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 and 5 are rendered indefinite because the range recited of the replacement compounds of the oxide is outside the range as recited in claim 1 of the (v) component.

### ***Claim Rejections - 35 USC § 102 and 35 USC § 103***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 8-11, 25, and 26 are rejected under 35 U.S.C. 102(b) as being Tran by 5,809,199.

Tran discloses a heavy-metal oxyfluoride glass having overlapping ranges of components with instant claims 1-5, 8-10, and 25. See column 3, line 33 to column 4, line 3, column 4, 15-26 and Tables 1-3. The compositional ranges of Tran are sufficiently specific to anticipate the glass composition recited in claims 1-5, 8-10, and 25. See MPEP 2131.03. Furthermore, Tran discloses Example MP23, which anticipates the compositional limitations of 1-5 and 8-10. See Tables 1 and 2. Tran discloses that the glass is used as a fiber. See column 1, lines 10-15.

Since the composition of the reference is the same as those claimed herein it follows that the glasses of Tran would inherently possess the properties recited in claims 1 and 11. See MPEP 2112.

Claims 1-5, 8-16, and 19-26 are rejected under 35 U.S.C. 102(b) as being Otsuka et al. by 5,017,520.

Otsuka et al. disclose an optical glass having overlapping ranges of components with instant claims 1-5, 8-16, and 19-26. See Abstract, column 1, line 50 to column 4, line 6. The compositional ranges of Otsuka et al. are sufficiently specific to anticipate the glass composition recited in claims 1-5, 8-16, and 19-26. See MPEP 2131.03. Otsuka et al. discloses that the glass is used as an optical element such as a lens. See column 1, lines 10-12 and column 4, lines 14-22. Otsuka et al. disclose that the optical glass has good chemical durability. See column 4, lines 14-22.

Since the composition of the reference is the same as those claimed herein it follows that the glasses of Tran would inherently possess the properties recited in claims 1 and 11-24. See MPEP 2112.

Claims 1-25 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hara, U.S. Patent 5,242,868.

Hara discloses an optical glass having overlapping ranges of components with instant claims 1-26. See Abstract, column 2, lines 7-20. The compositional ranges of Hara are

sufficiently specific to anticipate the glass composition recited in claims 1-26. See MPEP 2131.03. Hara discloses that the glass is used as an optical filter. See column 1, lines 10-12.

Since the composition of the reference is the same as those claimed herein it follows that the glasses of Hara would inherently possess the properties recited in claims 1 and 11-24. See MPEP 2112.

However, Hara does not disclose any examples that anticipate claims 1-25.

Therefore, in the alternative to the § 102 rejection the reference discloses a composition that has overlapping ranges of components with the instant claimed glass, and overlapping ranges have been held to establish *prima facie* obviousness. See MPEP 2144.05.

Since the composition of Hara is the same as those claimed herein it follows that the glasses of Hara would inherently have the same properties as recited in claims 1, 11-24. See MPEP2112.

### ***Conclusion***

The additional references cited on the 892 have been cited as art of interest since they are considered to be cumulative to or less than the art relied upon in the rejections above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH A. BOLDEN whose telephone number is (571)272-1363. The examiner can normally be reached on 10 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1793

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jerry A Lorengo/  
Supervisory Patent Examiner, Art Unit 1793

Elizabeth A. Bolden  
Examiner  
Art Unit 1793

EAB  
19 May 2008